THE BOMBAY KHOTI ABOLITION ACT, 1949.

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SCHEDULE.

BOMBAY ACT No. VI OF 1950.[1]

[THE BOMBAY KHOTI ABOLITION ACT, 1949.]

[*3rd April 1950*]

Amended by Bom. 18 of 1950.

An Act to abolish the khoti tenure in the [2][State of Bombay].

WHEREAS it is expedient to abolish the khoti tenure prevailing in the districts of Ratnagiri and Kolaba in the [2][State of Bombay] and to provide for certain consequential and incidental matters hereinafter appearing; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Khoti Abolition Act, 1949.

(*2*) It extends to the districts of Ratnagiri and Kolaba as constituted immediately before the thirtieth day of July 1948.

(*3*) It shall come into force on such date as the [3][State Government] may, by notification in the *Official Gazette*, specify.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

Bom. V of 1879.

(*i*) "Code" means the Bombay Land Revenue Code, 1879;

(*ii*) "dhara land" means land held by a dharekari and in the Ratnagiri district includes land held by a quasidharekari;

(*iii*) "dharekari" means a landholder who holds land on the dhara tenure;

(*iv*) "khot" includes,—

(*a*) a mortgagee lawfully in possession of a khotki,

(*b*) all co-sharers in a khotki;

Bom. I of 1880.

(*v*) "Khoti Act" means the Khoti Settlement Act, 1880;

(*vi*) "khot's dues" means,—

(*a*) the rent paid to a khot by a quasidharekari or permanent tenant of khoti land in the district of Ratnagiri, in accordance with the provisions of section 33 of the Khoti Act, and

(*b*) the khoti fayda paid by any tenant of the khoti nisbat land in the district of Kolaba, in accordance with the terms of the kabulayat or in accordance with the orders passed under section 38 of the Khots Leases Act, 1865,

Bom. I of 1865.

exclusive of the survey assessment due to the [3][State Government] and the cess leviable under section 93 of the Bombay Local Boards Act, 1923, in respect of such land;

Bom. VI of 1923.

(*vii*) "khoti khasgi land" means,—

(*a*) in the Ratnagiri District, khoti land held by and in possession of a khot other than khoti nisbat land and land held by a privilege occupant as defined in the Khoti Act;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, pp. 205-206.

[2] These words were substituted for the words "Province of Bombay" by Bom. 18 of 1950, s. 2 (*i*).

[3] These words were substituted for the words "Provincial Government", *ibid*, s. 2 (*ii*).

(*b*) in the Kolaba District,—

(*i*) land which is entered in the khot's own name as khoti khasgi or in that of a co-sharer in a khotki in the records of the original survey ; and

(*ii*) land acquired since the original survey by the khot by purchase or other lawful transfer otherwise than in his capacity as a khot ;

(*viii*) "khoti land" means land in respect of which a khot had, as such, any right or interest in the district of Ratnagiri according to the provisions of the Khoti Act and in the district of Kolaba according to the custom of the tenure ;

(*ix*) "khoti nisbat land" means,—

(*a*) in the district of Ratnagiri, land which in a khoti village before the coming into force of this Act has reverted to the khot under section 10 of the Khoti Act ;

(*b*) in the district of Kolaba,—

(*i*) land in a khoti village which may have come into the possession of the khot by lapse for failure of heirs of a tenant or by forfeiture on the tenant's failure to pay rent or by the resignation of the tenant ;

(*ii*) land which may have been entered at the original survey in the khoti nisbat padit khata and since brought into cultivation otherwise than at the khot's own expense ;

(*x*) "khoti village" means a village, or a portion or share of a village, to the extent to which a khot has any right or interest in such village, or portion or share thereof ;

(*xi*) "permanent tenant" means a holder of khoti land who has a permanent tenancy in such land ;

(*xii*) "quasidharekari" means a landholder of any of the denominations named in the first column of the Schedule to the Khoti Act.

(*2*) Any word or expression which is defined in the Code and not defined in this Act shall be deemed to have the meaning given to it by the Code.

(*3*) References in this Act to the provisions of the Khoti Act and the incidents of the khoti tenure shall, notwithstanding the repeal of the said Act and the abolition of the said tenure by this Act, be construed as references to the said provisions and incidents as they were in force immediately before this Act comes into force.

Abolition of khoti tenure.

3. With effect from and on the date on which this Act comes into force,—

(*1*) the khoti tenure shall, wherever it prevails in the districts of Ratnagiri and Kolaba, be deemed to have been abolished ; and

(*2*) save as expressly provided by this Act, all the incidents of the said tenure shall be deemed to have been extinguished, notwithstanding any law, custom, or usage or anything contained in any sanad, grant, kabulayat, lease, decree or order of any court or any other instrument.

Khot, dharekari and tenants to be occupants.

4. (*1*) (*a*) In the case of khoti khasgi land, the khot ;

(*b*) in the case of a dhara land, the dharekari or quasidharekari ;

(*c*) in the case of land held by a permanent tenant, the permanent tenant ;

(*d*) (*i*) in the case of khoti nisbat land, any tenant in possession of the land ; and

(*ii*) if there be no tenant in possession of such land, the khot;

shall be primarily liable to the [1][State Government] for the payment of land revenue due in respect of such land held by him and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or any other law for the time being in force:

Provided that in the district of Ratnagiri, in the case of a tenant (other than a permanent tenant) in the possession of khoti nisbat land, such tenant shall be entitled to the rights of an occupant on payment to the khot of the occupancy price equivalent to six multiples of the survey assessment fixed on the land:

Provided further that in the district of Kolaba, in the case of a tenant (other than a permanent tenant) in the possession of khoti nisbat land such tenant, and in the case of a khot in respect of khoti nisbat land in his actual possession such khot, shall be entitled to the rights of an occupant on payment to the [1][State Government] of the occupancy price equivalent to six multiples of the survey assessment fixed on the land.

(*2*) The occupancy price payable under this section shall be in addition to the amount of the commuted value payable by any person under section 5.

(*3*) With effect from the date on which this Act comes into force, the land in respect of which any person is entitled to the rights of an occupant under sub-section (*1*), shall be free from the liability for the payment of khot's dues in respect thereof, and all rights of a khot in his capacity as a khot in such land shall be deemed to have been extinguished.

(*4*) Nothing in sub-section (*3*) shall in any way affect the liability of any person to pay in respect of the land in is possession the amount of the khot's dues for the current year ending on the 31st day of July 1950 and the amount of the arrears of such dues for any previous year in respect of the said land.

Commutation of khot's dues.

5. (*1*) A quasidharekari or a permanent tenant or a tenant of khoti nisbat land shall be liable to pay the commuted value of the khot's dues which were payable by him immediately before the coming into force of this Act in respect of the land held by him. Such commuted value shall be estimated and paid in the manner prescribed in sub-sections (*2*) and (*3*).

(*2*) The Mamlatdar shall give notice in the prescribed manner to the persons referred to in sub-section (*1*) and the khot, and after holding a formal inquiry shall be determine the amount of the commuted value of the khot's dues:

Provided that the amount of cummuted value sllall not exceed three times the amount of the khot's dues, if payable in cash or three times the value of such dues if payable in kind, subject to the maximum of a sum equal to six times the survey assessment of the land, or if the khot's dues are payable in crop share, three times the commuted value of such dues reckoned in the manner provided for in sub-section (*3*).

(*3*) In estimating the commuted value of the khot's dues payable in crop-share, a third crop-share shall be held as equivalent to two multiples of survey assessment fixed on the land and any other crop-share as a proportional multiple of such assessment:

Provided that the commuted value of the produce payable on any warkas land actually used for the purpose of rab manure in connection with rice cultivation shall be held as equivalent to one survey assessment of such land.

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[1]These words were substituted for the words "Provincial Government" by Bom. 18 of 1950, s. 2 (*ii*).

Occupancy price or commutation value recoverable as arrears of land revenue.

6. The amount of the occupancy price payable under section 4 and the amount of the commutation value payable under section 5, if not deposited with the Mamlatdar or paid to the khot, in accordance with the directions within the period specified in the direction, shall be recoverable as arrears of land revenue. The amount deposited or recovered shall be paid to the khot or credited to [1][Government] as the case may be.

Khot to hand over accounts etc. to authorised Officer.

7. (*1*) Whenever an officer authorised by the [2][State Government] in this behalf so directs, a khot shall produce before him or such other officer as may be specified in the direction accounts and other records relating to the khoti village kept by him in the Ratnagiri district under the provisions of the Khoti Act and in the Kolaba district under the terms of the kabulayat.

(*2*) If the a khot fails without reasonable cause to deliver any such accounts or records, he shall, on conviction, be punished with fine which may extend to Rs. 200. In the case of a continuing failure to deliver any such accounts or records, the khot shall be punished with an additional fine which may extend to Rs. 25 for every day during which such failure continues after conviction for the first such failure.

Uncultivated and waste lands and all property of the nature specified in section 37 of the Code vests in [1][Government].

8. For the removal of doubt, it is hereby declared that all uncultivated and waste lands in a khoti village not appropriated by any khot and not entered into the revenue or survey records as khoti khasgi before the date on which this Act comes into force, and all other kinds of property referred to in section 37 of the Code, situate in a khoti village, which are not the property of the individuals or of any aggregate of persons legally capable of holding property and except in so far as any rights of such persons may be established in or over the same and except as may be otherwise provided in any law for the time being in force, are together with all rights in or over the same or appertaining thereto, the property of [1][Government] and it shall be fawful to dispose of or set apart the same for the authority in the manner and for the purpose provided in section 37 or 38 of the Code, as the case may be.

Extinction of khot's right of reversion

9. From the date on which this Act comes into force a khot shall not be entitled to acquire any right in any khoti land by right of reversion.

Explanation.—For the purposes of this section, the right of reversion shall mean a right by which a khot was entitled to acquire lands held by a privileged occupant under section 10 of the Khoti Act or dhara or khoti nisbat land in the district of Kolaba according to the custom of the tenure.

Right to trees.

10. The rights to trees specially reserved under the Indian Forest Act, 1927, or any other law for the time being in force except those the ownership or which has been transferred by [1][Government] under any contract, grant or law for the time being in force shall vest in [1][Government]. XVI of 1927.

Application of the Code to lands in khoti village.

11. Save as otherwise expressly provided in this Act, the provisions of the Code shall apply to lands in a khoti village.

Method of compensation for the extinguishment or modification of any rights n land.

12. (*1*) If a khot or any other person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in land and if such person proves that such extinguishment or modification amounts to transference to public ownership of any land or any right in or over such land, such person may apply to the Collector for compensation.

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[1] This word was substituted for the words " the Crown " by Bom. 18 of 1950, s. 2 (*iii*).

[2] These words were substituted for the words " Provincial Government " *ibid*, s. 2 (*ii*).

(*2*) Such application shall be made in the form prescribed by rules made under this Act within six months from the date on which this Act comes into force.

(*3*) The Collector shall after holding a formal inquiry in the manner provided by the Code award such compensation as he deems reasonable and adequate :

Provided that—

(*a*) the amount of compensation for the extinguishment of the right of reversion in lands in a khoti village in the district of Ratnagiri shall not exceed the amount calculated at the rate of Rs. 2 per 100 acres of such land ;

(*b*) the amount of compensation for the extinguishment of any right to appropriate any uncultivated and waste lands not appropriated by any khot and not entered in the revenue or survey records as khoti khasgi immediately before the 1st day of August 1949, shall not exceed the amount calculated at the rate of Rs. 5 per 100 acres of such land :

Provided further that in the case of the extinguishment or modification of any other right of a khot or any right of any other person the Collector shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894 : I of 1894.

Provided also that if any question arises whether any land is dhara, khoti khasgi or khoti nisbat or is held by a permanent tenant or other tenant, the Collector shall after holding a formal inquiry in the manner provided by the Code decide the question.

(*4*) Subject to the provisions of sub-section (*5*), the award or decision of the Collector shall be final.

(*5*) Any person aggrieved by the award or decision of the Collector may appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939. Bom. XII of 1939.

(*6*) In deciding appeals under sub-section (*5*), the Bombay Revenue Tribunal shall exercise all the powers which a Court has and follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908. V of 1908.

13. Every appeal made under this Act to the Bombay Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal. IX of 1908. Limitation.

14. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed. VII of 1870. Court-fees.

15. Nothing in this Act shall in any way be deemed to affect the application of any of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, to any of the khoti lands or the mutual rights and obligations of a khot and his tenants, save in so far the said provisions are not in any way inconsistent with the express provisions of this Act. Bom. LXVII of 1948. Provisions of Bom. LXVII of 1948 to govern the relations of khot and tenants.

16. The [1][State Government] may make rules for the purpose of carrying out the provisions of this Act. Such rules shall be subject to the condition of previous publication and shall, when finally made, be published in the *Official Gazette*. Rules.

[1] These words were substituted for the words "Provincial Government" by Bom. 18 of 1950, s. 2 (*ii*).

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Repeal.

17. The enactments specified in the Schedule are hereby repealed to the extent specified in column 4 thereof :

Provided that the repeal of the said enactment and the provision declaring any incident of the khoti tenure to have been extinguished shall not in any way affect any legal proceeding pending at the date of the commencement of this Act and such legal proceeding shall be continued and finally disposed of as if this Act had not been passed.

SCHEDULE.

(*See* section 17.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1865	I	The Khots Leases Act, 1865	Sections 37 and 38.
1879	V	The Bombay Land Revenue Code, 1879	Section 114.
1880	I	The Khoti Settlement Act, 1880	The whole.